

UPDATED INFORMATIVE DIGEST

Sections Affected: Adoption of section 93119, title 17, California Code of Regulations. Adoption of the National Oceanic and Atmospheric Administration (NOAA) Nautical Charts: Chart Number 18600 - *Trinidad Head to Cape Blanco* [January 2002], Chart Number 18620 - *Point Arena to Trinidad Head* [June 2002], Chart Number 18640 - *San Francisco to Point Arena* [July 2000], Chart Number 18680 - *Point Sur to San Francisco* [March 2001], Chart Number 18700 - *Point Conception to Point Sur* [July 2003], Chart Number 18720 - *Point Dume to Purisima Point* [January 2005], and Chart Number 18740 - *San Diego to Santa Rosa Island* [August 2003], incorporated by reference in title 17, CCR section 93119(d)(10).

Background

In 2004, Assembly Bill 471 (AB 471) was passed by the California Legislature, signed by the Governor, and codified in Health and Safety Code section 39630 *et seq.* AB 471 prohibits cruise ships from conducting onboard incineration while operating within three miles of the California coast, but does not specifically say how the three-mile limit is to be determined. This law became effective January 1, 2005.

By prohibiting incineration within three nautical miles of the California coast, the potential for adverse public health impacts will be reduced for residents and off-site workers who live or work near ports and along the coast. AB 471 is expected to reduce exposure to emissions of toxic air contaminants, such as polychlorinated dibenzodioxins (dioxins), polychlorinated dibenzofurans (furans), and toxic metals. This airborne toxic control measure (ATCM) will implement AB 471, clarify the three-mile limit, and ensure that AB 471 is adequately enforced. Prior to the adoption of this ATCM, there were no State regulations, and there are currently no local air district regulations, for cruise ship onboard incinerators.

The Regulations Adopted In This Rulemaking

The ATCM would affect owners or operators of cruise ships that travel within three nautical miles of the California coast, including while at California ports or terminals. Based on 2004 data, 11 cruise ship lines had approximately 45 vessels that entered one or more California ports. To meet the definition of a cruise ship, the vessel must have the capacity to carry 250 or more passengers and must have berths or overnight accommodations for passengers.

Under the ATCM, cruise ship owners or operators are prohibited from conducting onboard incineration within three miles of the California coast. The phrase "within three miles of the California coast" is defined in the ATCM as between the California coast and the Three Nautical Mile Line, as shown on the following NOAA Nautical Charts, as authored by the NOAA Office of Coast Survey, which are incorporated by reference in the regulation.

- Chart 18600, Trinidad Head to Cape Blanco (January 2002).
- Chart 18620, Point Arena to Trinidad Head (June 2002).
- Chart 18640, San Francisco to Point Arena (July 2000).
- Chart 18680, Point Sur to San Francisco (March 2001).
- Chart 18700, Point Conception to Point Sur (July 2003).
- Chart 18720, Point Dume to Purisima Point (January 2005).
- Chart 18740, San Diego to Santa Rosa Island (August 2003).

In addition, the ATCM requires cruise ship owners or operators to maintain records containing the following information for each segment of a voyage if, during any portion of that segment, the cruise ship travels within three nautical miles of the California coast.

- The date and time of start and stop of incineration (in local time).
- The position of the ship in latitude and longitude for each start and stop time of incineration.
- The estimated amount incinerated in cubic meters (m³).
- The name or signature of officer in charge of the operation.

Records shall be maintained in English and kept onboard the cruise ship for two years. During an onboard inspection, these records shall be made available to Air Resources Board (ARB) personnel, district personnel, or their delegates. In addition, upon written request by the Executive Officer of the ARB or Air Pollution Control Officer from a district, the owner or operator of the cruise ship shall provide copies of the records within 30 calendar days of the request.

The recordkeeping requirements in the ATCM are also required under Regulation 9 of Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78). Cruise ships currently maintain this information in a garbage record log book.

Comparable Federal Regulations

The International Maritime Organization (IMO) is a specialized agency of the United Nations which is responsible for measures to improve the safety and security of international shipping and to prevent marine pollution from ships. The IMO, along with other maritime nations, has developed standards which are set forth in the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). MARPOL 73/78 is a combination of two treaties adopted in 1973 and 1978 and has been updated by amendments over the years. MARPOL 73/78 includes six technical annexes which include regulations aimed at preventing and minimizing pollution from ships. Compliance with MARPOL 73/78 is mandatory.

MARPOL 73/78 contains two regulations for onboard cruise ship incinerators. Annex V primarily deals with garbage recordkeeping requirements for onboard incineration. Annex VI prohibits the incineration of certain wastes and imposes additional operating

requirements for the incinerators. MARPOL 73/78 is implemented in the United States by the Act to Prevent Pollution from Ships (33 U.S.C. section 1901 *et seq.*). The United States Coast Guard is responsible for prescribing and enforcing regulations pursuant to MARPOL 73/78. The ATCM does not differ substantially from the incinerator and recordkeeping requirements of MARPOL 73/78.

The U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), is responsible for regulations and policies governing the handling and disposal of regulated garbage to prevent the introduction of foreign animal and plant disease and pests. These regulations are contained in title 7, Code of Federal Regulations (CFR), section 330.400 and title 9, CFR section 94.5. "Regulated garbage," as defined by the CFR, is derived in whole or in part from fruits, vegetables, meats, or other plants or animal material, and other refuse associated with the material onboard including food scraps, table refuse, galley refuse, food wrappers or packing materials and other waste material from stores, food preparation areas, passenger or crew quarters, dining rooms and other areas. Most of the regulated garbage onboard cruise ships are subject to APHIS regulations.

Under APHIS regulations, regulated garbage within the territorial waters or the territory of the United States is required to be destroyed by incineration to an ash or sterilization by cooking to an internal temperature of 212 degrees Fahrenheit for 30 minutes. Regulated garbage may also be ground and disposed of in an APHIS approved sewer system.

The ATCM differs from the APHIS regulations in that APHIS allows incineration within territorial waters (within 12 nautical miles of the coast) while the ATCM prohibits incineration within three nautical miles of the coast.